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17 [Additional Counsel on Signature Page]

18
19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN JOSE DIVISION**

22 IN RE ENPHASE ENERGY, INC. DERIVATIVE
23 LITIGATION
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LEAD CASE NO. 3:20-cv-04623-BLF

**JOINT NOTICE OF RELATED CASE
AND STIPULATION AND
[PROPOSED] ORDER ON
CONSOLIDATION**

1 **WHEREAS**, on November 18, 2020, Plaintiff Anthony R. Buch (“Plaintiff Buch”) filed
2 a verified stockholder derivative complaint purportedly on behalf of Enphase Energy, Inc.
3 (“Enphase”) against Badrinarayanan Kothandaraman, Eric Branderiz, Mandy Yang, Steven J.
4 Gomo, Benjamin Kortlang, Richard Mora, and Thurman J. Rodgers (collectively, the “Individual
5 Defendants”), and with Enphase, “Defendants”), captioned *Buch v. Kothandaraman*, Case No.
6 3:20-cv-08131-AGT (the “Buch Action”);

7 **WHEREAS**, the allegations in the Buch Action are substantially similar to the
8 allegations raised in a securities class action captioned *Hurst v. Enphase Energy, Inc.*, Case No.
9 5:20-cv-04036-BLF (the “Hurst Action”), as well as two previously filed verified derivative
10 actions, which, on November 20, 2020, the Court consolidated and appointed co-counsel (the
11 “Consolidated Action”) (Dkt. No. 31) (the “Order”);

12 **WHEREAS**, pursuant to Paragraph 9 of the Court’s Order, Defendants and Plaintiff
13 Buch, respectfully submit this Joint Notice of Related Case and Stipulation on Consolidation and
14 contend that this case should be related to and formally consolidated into the Consolidated
15 Action;

16 **WHEREAS**, pursuant to paragraph 10 of the Court’s Order, Defendants and Plaintiff
17 Buch agree that the terms of the order entered in *Shen v. Kothandaraman*, Case No. 3:20-cv-
18 04623-CRB (the “Shen Action”), on September 24, 2020 staying the Shen Action pending
19 resolution of the motion to dismiss in the related Hurst Action, shall also apply to the Buch
20 Action. For the avoidance of doubt, Defendants shall not be required, during the pendency of the
21 stay, to respond to any complaint or amended complaint filed in the Consolidated Action, the
22 Buch Action, or any action later consolidated into the Consolidated Action;

23 **WHEREAS**, the Individual Defendants hereby accept service of the complaint filed in the
24 Buch Action, provided, however, that the acceptance of service shall not waive any rights, claims
25 and defenses other than a defense as to the sufficiency of service;

26 **WHEREAS**, this Joint Notice and Stipulation is without prejudice to any and all other
27 defenses Defendants may assert in this or any of the above-referenced actions, including, but not
28 limited to, jurisdictional defenses such as *forum non conveniens* and improper venue, or any

1 other procedural or substantive challenge to the Consolidated Action, and without prejudice to
2 any and all claims Plaintiff Buch may assert.

3 **IT IS ACCORDINGLY STIPULATED**, by and between the undersigned counsel for
4 Defendants and Plaintiff Buch, and subject to approval by the Court, that:

5 1. The stay of proceedings ordered in the Shen Action is temporarily lifted for the
6 sole and limited purpose of the filing of, and ruling on, this stipulation and [proposed] order.

7 2. The Buch Action is hereby consolidated into the Consolidated Action for all
8 purposes, including pre-trial proceedings and trial, pursuant to Federal Rule of Civil Procedure
9 42(a).

10 3. All other terms of the Order in the Consolidated Action, Dkt. No. 31, shall
11 continue to apply to the Consolidated Action now including the Buch Action.

12
13 Dated: December 1, 2020

LATHAM & WATKINS LLP

14
15 By /s/ Colleen C. Smith
16 Colleen C. Smith

17 Attorneys for Defendants

18 Dated: December 1, 2020

EDELSON LECHTZIN LLP

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20 By /s/ Eric Lechtzin
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27 Attorneys for Plaintiff BUCH

28 Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this Joint Notice and
Stipulation.

/s/ Colleen C. Smith
Colleen C. Smith

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

The Hon. Beth Labson Freeman
United States District Judge